IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 1ST OCTOBER 2007 / 9TH ASWINA 1929

Bail Appl..No. 5878 of 2007()

CR.769/07 OF KODUNGALLUR P.S

PETITIONER/ACCUSED

BALAN, THERUVIL PADINJATTEDATH HOUSE,
T.K.S.PURAM, METHALA VILLAGE, KODUNGALLUR P.O.,
THRISSUR.

BY ADV. SRI.K.A.JALEEL

RESPONDENTS: COMPLAINANT.

STATE OF KERALA (REPRESENTED BY THE
SUB INSPECTOR OF POLICE, KODUNGALLUR POLICE
STATION - CRIME 769/07 OF KODUNGALLUR POLICE
STATION) REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR ADV.SRI.S.U.NAZER

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 01/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

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B.A.No.5878 of 2007

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Dated this the 1st day of October, 2007

ORDER

Application for anticipatory bail. The petitioner is the brother-in-law of the de facto complainant. His brother/husband of the de facto complainant is no more. According to the petitioner, even when the deceased brother was alive, there were disputes between the deceased and his wife. The de facto complainant/wife was allegedly residing separately even prior to her husband's death. The de facto complainant is making attempts to stake claims on the property of her deceased husband. A complaint has been filed alleging that the petitioner, the brother of the deceased is committing theft etc. in the property of his deceased brother. There was a shed in the property. The petitioner had allegedly trespassed into the shed and removed articles from the shed. Investigation is in progress. The petitioner apprehends imminent arrest.

2. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. In its core and substance there is only dispute regarding the right over the property and possession of the property. False, frivolous and exaggerated allegations have been raised to vex and harass the petitioner. In these circumstances, the petitioner may be granted anticipatory bail, it is prayed.

3. The learned Public Prosecutor does not oppose the prayer for anticipatory bail. The learned Public Prosecutor submits that the Investigator, after due investigation, has now deleted Section379 IPC. Investigation is in progress. Appropriate directions may be imposed, it is prayed. I am satisfied ,in the facts and circumstances of the case, that anticipatory bail can be granted to the petitioner.

4. In the result this petition is allowed. The following directions are issued under Sec.438 Cr.P.C

i) Petitioner shall surrender before the learned Magistrate having jurisdiction at 11 a.m on 08.10.2007.

ii) He shall be released on regular bail on condition that he executes a bond for Rs.25,000/-(Rupees twenty five thousand only) with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate.

iii) The petitioner shall make himself available for interrogation before the investigating officer between 10 a.m and 5 p.m on 9.10.07 and thereafter the petitioner shall so appear as and when directed by the investigating officer in writing to do so.

(iv) If the petitioner does not appear before the learned Magistrate as directed in clause (i), directions issued above shall thereafter stand revoked and the police shall be at liberty to arrest the

petitioner and deal with him in accordance with law, as if these directions were not issued at all.

(v) If he were arrested prior to 8.10.2007, he shall be released on bail on his executing a bond for Rs.25,000/- (Rupees twenty five thousand only) without any sureties, undertaking to appear before the learned Magistrate on 8.10.2007.

(R.BASANT, JUDGE)

sj

/TRUE COPY/

P.A.TO JUDGE